XIV-C-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक Cr.M.P No. 237/2007 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

SB: HON'BLE SHRI DHIRENDRA MISHRA, J

APPLICANT Ashwani Kumar, aged about 59 years, son of Shri Sakharam Sendre, R/o. Retd. Deputy Director, Town and Country Planning, Road No. 1. T.T. Nagar, Bhopal (M.P.)

Vs.

RESPONDENT Janki Bai, aged about 49 years, wife of Shri Ashwani Kumar Sendre, R/o Dandgaon, Police Station- Pathariya, Tehsil- Mungeli, Distt. Bilaspur

8-8-2007

Shri Utkarsh Verma, Advocate for the applicant.

By this petition under Section 482 of Cr.P.C., the petitioner has impugned the order dated 5th June, 2006 passed in Criminal Revision No. 154/2005 whereby learned Second Additional Sessions Judge (FTC), Mungeli has allowed the revision preferred by the respondent-wife Janki Bai and enhanced the amount of maintenance granted to her in the application under Section 127(1) of Cr.P.C. from Rs. 500/- to Rs. 1000/- per month.

Learned counsel for the applicant submits that the order of maintenance was passed in favour of the respondent by Lok Adalat-Judicial Magistrate First Class, Mungeli vide order dated 28-9-1997 and accordingly the award of Rs. 500/- per month as maintenance was passed. The non-applicant moved an application under Section 127(1) of the Cr.P.C. and prayed for enhancement of the maintenance awarded on the ground that at the time of passing of the order, the

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applicant-husband was earning Rs. 4,000/- per month whereas now he is earning Rs. 10,000/- per month and the amount of maintenance is inadequate to maintain her. However this application was rejected by the learned Judicial Magistrate First Class with an observation that the respondent-wife has failed to prove that she is not able to maintain herself and the revision preferred against that order, has been allowed by the impugned order and the amount of maintenance has been enhanced from Rs. 500/- per month to Rs. 1000/- per month.

Learned counsel for the applicant-husband submits that application under Section 127(1) of the Cr.P.C. was not maintainable at the first instance because application under Section 127(1) of Cr.P.C. is maintainable where the application under Section 125 of Cr.P.C. has been allowed. Since the order of maintenance in favour of the wife was passed on the mutual consent and there is no finding as contemplated under Section 125 of Cr.P.C. whereunder maintenance is to be awarded where the husband neglects or refuses to maintain his wife inspite of having sufficient means to maintain her, the application under Section 127 of Cr.P.C. was not maintainable. I am unable to accept the arguments advanced by the counsel for the applicant. The order is passed only in the application under Section 125 of Cr.P.C. however the same was disposed of with the mutual consent and accordingly maintenance of Rs. 500/- was awarded by the Judicial Magistrate First Class.

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	The revision being devoid of substance is liable to be dismissed and the same is accordingly dismissed at admission stage itself. Sd/- DHIRENDRA MISHRA Judge	

P/-

[पीछे देखिये